

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

LATOYA BROWN; et al

PLAINTIFFS

v.

CAUSE NO. 3:17cv347-WHB-LRA

MADISON COUNTY, MISSISSIPPI; et al

DEFENDANTS

DEFENDANTS' MOTION TO STRIKE DECLARATIONS

NOW COME Defendants, Madison County, Mississippi and Sheriff Randall S. Tucker, in his official capacity, by and through their undersigned counsel of record, and files this Motion to Strike Declarations as follows:

1. Plaintiffs Latoya Brown, Lawrence Blackmon, Khadafy Manning, Quinetta Manning, Nicholas Singleton, Steven Smith, Bessie Thomas, and Betty Jean Williams Tucker (hereinafter "Plaintiffs") filed a [Dkt. # 231] Motion for Class Certification (the "Motion") and accompanying [Dkt. #232] Memorandum of Authorities on March 14, 2018, and seek certification as representatives of a class pursuant to FED. R. CIV. P. 23(b)(2).

2. In essence, Plaintiffs claim that there are Rule 23 grounds for a class based on alleged racial targeting of Black people in Madison County by the Madison County Sheriff's Department ("MCSD"). In support of their Motion, Plaintiffs attached twenty five Declarations (hereinafter the "Declarations") from the following individuals, who are not currently parties to this action, and were not originally disclosed as witnesses: James Bacon; Michael Bracey; Anthony Brown; Bysheba Brown; Willie Carter; Rasheid Davis; Veronica Davis; Demario Day; Domonique Doss; Undrea Guise; Kenneth Harris; Lester Hollins; Antonio Howard; Destiny Jones; Lisa Lewis Jones; Archie McKay; Antonio Mitchell; Ernest Pate, Jr.; Delores Smith; Quincy

Smith; John Spann; Terrance Thompson; Montreal Tillman; Earline Wilder; and Michelle Williams (hereinafter collectively the “Witnesses”). [Dkt #231, Exhibits 37 through 61].¹

3. Defendants have moved to strike the aforementioned Declarations, in whole or in part, on the following grounds: (1) the Declarations rest on nothing more than subjective beliefs of race discrimination; (2) the Declarations are irrelevant and are not probative under the Federal Rules of Evidence; and (3) some or all of the Witnesses’ claims and allegations should be barred by *Heck v. Humphrey*, 512 U.S. 477 (1994).

4. In the alternative only, should the Court not strike the Declarations, the Court should require Plaintiffs to produce those witnesses upon whom they rely to be examined at an evidentiary hearing on the Plaintiffs’ Motion, as Defendants have requested in their separately filed conditional Motion for Evidentiary hearing.

5. In support of this Motion, Defendants are filing a separate Memorandum of Authorities, which is incorporated herein, and Exhibits “A” through “ZZ” listed below:

EXHIBIT “A” – Plaintiffs’ Memorandum in Support of Motion for Class Certification;

EXHIBIT “B” – Plaintiffs’ Supplemental Initial Disclosures dated December 28, 2017;

EXHIBIT “C” – December 29, 2017 email exchange between Isaac Rethy and Charles Cowan with document production;

EXHIBIT “D” – Plaintiffs’ Second Supplemental Initial Disclosures;

EXHIBIT “E” – February 7, 2018 email exchange between Charles Cowan and Kavitha Sivashanker with document production;

EXHIBIT “F” – February 13, 2018 email from Kavitha Sivashanker with initial disclosures and document production;

¹ See Exhibit “A” - Plaintiffs’ Memorandum in Support of Motion for Class Certification with Plaintiffs’ references to Declarations highlighted [Dkt. # 232].

EXHIBIT “G” – Declaration of James Bacon;

EXHIBIT “H” – Declaration of Michael Bracey;

EXHIBIT “I” – Declaration of Anthony Brown;

EXHIBIT “J” – Declaration of Bysheba Brown;

EXHIBIT “K” – Declaration of Willie Carter;

EXHIBIT “L” – Declaration of Rasheid Davis;

EXHIBIT “M” – Declaration of Veronica Davis;

EXHIBIT “N” – Declaration of Demario Day;

EXHIBIT “O” – Declaration of Domunique Doss;

EXHIBIT “P” – Declaration of Undrea Guise;

EXHIBIT “Q” – Declaration of Kenneth Harris;

EXHIBIT “R” – Declaration of Lester Hollins;

EXHIBIT “S” – Declaration of Antonio Howard;

EXHIBIT “T” – Declaration of Destiny Jones;

EXHIBIT “U” – Declaration of Lisa Lewis Jones;

EXHIBIT “V” – Declaration of Archie McKay;

EXHIBIT “W” – Declaration of Antonio Mitchell;

EXHIBIT “X” – Declaration of Earnest Pate, Jr.;

EXHIBIT “Y” – Declaration of Delores Smith;

EXHIBIT “Z” – Declaration of Quincy Smith;

EXHIBIT “AA” – Declaration of John Spann;

EXHIBIT “BB” – Declaration of Terrance Thompson;

EXHIBIT “CC” – Declaration of Montreal Tillman;

EXHIBIT “DD” – Declaration of Earline Wilder;

EXHIBIT “EE” – Declaration of Michelle Williams;

EXHIBIT “FF” – Bacon Incident Report;

EXHIBIT “GG” – Bracey Justice Court Records;

EXHIBIT HH” – Anthony Brown Justice Court Records;

EXHIBIT “II” – Carter Justice Court Records;

EXHIBIT “JJ” – R. Davis Justice Court Records;

EXHIBIT “KK” – V. Davis Justice Court Records;

EXHIBIT “LL” – Day Court Records;

EXHIBIT “MM” – Doss Justice Court Records;

EXHIBIT “NN” – Guise Justice Court Records;

EXHIBIT “OO” – Harris Justice Court Records;

EXHIBIT “PP” – Hollins Justice Court Records;

EXHIBIT “QQ” – Howard Justice Court Records;

EXHIBIT “RR” – D. Jones Records;

EXHIBIT “SS” – McKay Justice Court Records;

EXHIBIT “TT” – Mitchell Justice Court Records;

EXHIBIT “UU” – Pate Justice Court Records;

EXHIBIT “VV” – Delores Smith Records;

EXHIBIT “WW” – Quincy Smith Justice Court Records

EXHIBIT “XX” – Thompson Justice Court Records

EXHIBIT “YY” – Madison County Detention Center Records, Tillman; and

EXHIBIT “ZZ” – Affidavit of Cheryl Horn, Clerk of Madison County Justice Court, with justice court records attached as Exhibits “1” and “2”.

WHEREFORE, PREMISES CONSIDERED, this Court should strike the Declarations attached to Plaintiffs' Motion.

Respectfully submitted this 14th day of May, 2018.

**MADISON COUNTY, MISSISSIPPI, and
SHERIFF RANDALL C. TUCKER, IN
HIS OFFICIAL CAPACITY**

BY: s/ Charles E. Ross
Michael B. Wallace (MSB #6904)
Charles E. Ross (MSB #5683)
James E. Graves, III (MSB #102252)
Charles E. Cowan (MSB #104478)
WISE CARTER CHILD & CARAWAY, P.A.
Post Office Box 651
Jackson, Mississippi 39205-0651
Telephone: 601-968-5534
Facsimile: 601- 944-7738
mbw@wisecarter.com
cer@wisecarter.com
jeg@wisecarter.com
cec@wisecarter.com

and

T. Russell Nobile (MSB #100682)
WISE CARTER CHILD & CARAWAY, P.A.
2510 14th Street, Suite 1125
Gulfport, Mississippi 39501
Telephone: 228-867-7141
Facsimile: 228-867-7142
trn@wisecarter.com

OF COUNSEL:

Rebecca B. Cowan (MSB #7735)
CURRIE JOHNSON & MYERS, P.A.
1044 River Oaks Dr.
Jackson, Mississippi 39232
P.O. Box 750
Jackson, Mississippi 39205-0750
Telephone: 601-969-1010
Facsimile: 601-969-5120
bcowan@curriejohnson.com

Katie Bryant Snell (MSB# 103607)
KATIE BRYANT SNELL, PLLC
P.O. Box 3007
Madison, Mississippi 39130-3007
Telephone: 601-460-9800
katie@katiebryantsnell.com

J. Lawson Hester
PETTIS, BARFIELD & HESTER, P.A.
4450 Old Canton Road, Suite 210
Jackson, Mississippi 39211
Telephone: 601-987-5300
lhester@pbhfirm.com

CERTIFICATE OF SERVICE

I, Charles E. Ross, hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will automatically send email notification to all counsel of record.

This the 14th day of May, 2018.

s/Charles E. Ross
CHARLES E. ROSS